IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 587 OF 2006

Raghu Bhoja Shetty ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. E.B. Dixit for the applicant.

Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 16th February, 2006

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant takes an exception to the condition imposed by the Sessions Judge, Mumbai whereby over and above directing the applicant to execute bond of Rs 25,000/- and furnishing one or two sureties, the applicant was further directed to submit a Bank Guarantee for an amount of Rs 5 lakhs. The law on this point is quite settled. The provisions of section 440 are absolutely clear and the Court is not permitted to impose further condition of deposit of cash amount over and above the condition of execution of personal bond and furnishing sureties for the said

amount. In the present case, it is alleged that the applicant has committed an offence punishable under sections 465, 467, 468, 471, 472, 255 etc read with section 34 of the Indian Penal Code and is in jail since 21/1/2005. The charge-sheet has been filed.

3. The learned APP has brought to my notice that the applicant is involved in four other similar cases. The applicant has been released on bail in other three cases. The Supreme Court in the case of Sandeep Jain Vs. National Capital Territory of Delhi rep. by Secretary, Home Deptt., reported in 2000 CRI.L.J. 807 has held that imposition of condition of deposit of huge amount practically amounts to denial of bail which would result in the accused languishing in jail endlessly. Similar view has been taken by this Court in number of cases.

4. In the result, the condition imposed by the Sessions Judge, directing the applicant to submit a Bank Guarantee of Rs 5 lakhs and in default of furnishing Bank Guarantee not to accept the surety, in my view, is clearly illegal and the order therefore needs to be modified. The said condition is, therefore, deleted and the applicant be released on bail in the sum of Rs 25,000/- on his executing

personal bond for the said amount with one or two sureties in the like amount. The applicant to report to Nagpada Police Station twice in a month till the disposal of the case.

5. Application is accordingly disposed of.

V.M. KANADE, J.